

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	CASE NO. 4:12-CV-543
<i>Ex rel.</i> Michael J. Fisher, Brian Bullock	§	
and Michael Fisher, Individually and	§	
Brian Bullock, Individually,	§	
	§	JURY TRIAL DEMANDED
Plaintiffs,	§	
	§	
vs.	§	
	§	
Ocwen Loan Servicing, LLC, et al., and	§	
Ocwen Financial Corporation,	§	
	§	
Defendant.	§	

UNITED STATES OF AMERICA	§	CASE NO. 4:12-CV-461
<i>Ex rel.</i> Michael J. Fisher and Brian	§	
Bullock, and Michael Fisher	§	
Individually, and Brian Bullock	§	
Individually,	§	JURY TRIAL DEMANDED
	§	
Plaintiffs,	§	
	§	
v.	§	
	§	
HOMEWARD RESIDENTIAL, INC.	§	
f/k/a American Home Mortgage	§	
Servicing, Inc. (“AHMSI”), and Ocwen	§	
Financial Corporation,	§	
	§	
Defendant.	§	

AGREED MOTION TO AMEND SCHEDULING ORDERS

The parties jointly move the Court to amend the Scheduling Orders in both *U.S. ex rel. Fisher v. Ocwen Loan Servicing, LLC et al.*, Case no. 12-CV-543 (“the *Ocwen* case”); and *U.S. ex rel. Fisher v. Homeward Residential, Inc. f/k/a/ American Home Mortgage Servicing, Inc. (“AHMSI”)*, Case No. 12-CV-641 (“the *Homeward* case”). The Scheduling Order in the *Ocwen* case is Docket No. 297; the Scheduling Order in the *Homeward* case is Docket No. 227.

The parties file this motion to request a modest continuance for the *Ocwen* deadlines, setting the case on what was previously the *Homeward* schedule, and a continuance for the Homeward schedule.

The continuance of the *Ocwen* schedule is necessitated by the need for more time to finish expert reports, with Relators' reports due this Friday. This requested extension is necessary so that Relators' experts can (i) review and analyze multiple depositions that the parties completed only in the last two weeks of discovery (including approximately 10 borrower depositions); (ii) review additional documents that Defendants downgraded and produced as a result of finalizing their privilege logging process; and (iii) complete the massive loan file review and analysis underpinning Relators' expert reports. Relators accordingly seek a modest two week extension of time for exchanging their contemplated expert reports with Defendants, and Defendants seek a corresponding extension of the allotted time for preparing their own expert reports in light of the detailed loan file analyses they understand Relators' experts to be conducting and the three expert disclosures they understand Relators anticipate making. The requested extensions are reasonable to allow sufficient time for the parties to complete their disclosures and conduct the necessary expert depositions. The parties have agreed to request that the *Ocwen* case be put on the *Homeward* trial and pretrial schedule, as described in the table below.

With respect to the *Homeward* case, a more sizeable extension is required to allow (i) both parties' experts to complete their loan file review, in light of the timing of the production of some of the loan file documents, and so as not to conflict with the *Ocwen* trial schedule; and (ii) to accommodate counsels' religious observances during the month of October. Thus, the parties request a continuance of the *Homeward* trial date to November 1, 2016, or thereafter at the Court's convenience. The parties will also agree to schedule a mediation session immediately following the *Ocwen* trial (the parties unsuccessfully mediated on February 12, 2016), when they

will likely be in a much better position to reach an agreement regarding the *Homeward* case in view of the results of the *Ocwen* trial, should that trial proceed.

The parties do not anticipate needing to request any additional continuances.

A revised proposed Scheduling Order is included below for the Court's convenience.

The parties jointly propose the following schedules:

Event	Current Deadlines	Proposed <i>Ocwen</i> Deadline	Proposed <i>Homeward</i> Deadline
Plaintiff's disclosure of expert testimony pursuant to Fed. R. Civ. P. 26(a)(2) and Local Rule CV-26(b).	March 4, 2016	March 18, 2016	May 6, 2016
Defendant's disclosure of expert testimony pursuant to Fed. R. Civ. P. 26(a)(2) and Local Rule CV-26(b)	April 19, 2016	May 20, 2016	August 8, 2016
Deadline to object to any other party's expert witnesses. Objections shall be made by a motion to strike or limit expert testimony and shall be accompanied by a copy of the expert's report in order to provide the court with all the information necessary to make a ruling on any objection.	2 weeks after disclosure of an expert is made (or one week after deposition whichever is later); Response: 7 days thereafter; Reply: 3 days thereafter; Sur-reply: 2 days thereafter	Unchanged	Unchanged
All expert discovery shall be commenced in time to be completed by this date	April 27, 2019	May 31, 2016	August 22, 2016
Notice of intent to offer certified records	March 23, 2016	April 27, 2016	August 15, 2016
Counsel and unrepresented parties are each responsible for contacting opposing counsel and unrepresented	March 23, 2016 (Ocwen) April 21, 2016 (Homeward)	April 27, 2016	August 1, 2016

parties to determine how they will prepare the Joint Final Pretrial Order (See Local Rule CV-16(b)) and Joint Proposed Jury Instructions and Verdict Form (or Proposed Findings of Fact and Conclusions of Law in non-jury cases).			
Video Deposition Designations due (see order for further instructions)	March 23, 2016 (Ocwen) May 19, 2016 (Homeward)	April 27, 2016	August 8, 2016
Motions in limine due. File Joint Final Pretrial Order. <i>See</i> Local Rules Appendix D (Submit Exhibit List in Microsoft Word format).	March 30, 2016 (Ocwen) May 3, 2016 (Homeward)	May 11, 2016	August 29, 2016
Response to motions in limine due File objections to witnesses, deposition extracts, and exhibits, listed in pre-trial order. (This does not extend the deadline to object to expert witnesses) (Provide the exhibit objected to in the motion to response). If numerous objections are filed the court may set a hearing prior to docket call. File Proposed Jury Instruction/Forms of Verdict (or Proposed Findings of Fact and Conclusions of Law)	April 8, 2016 (Ocwen) May 19, 2016 (Homeward)	May 23, 2016	September 12, 2016
Final Pretrial Conference	April 13, 2016 (Ocwen)	June 2, 2016	September 26, 2016

	June 2, 2016 (Homeward)		
9:00 a.m. Jury selection and trial Cases that remain for trial following the Court's Pretrial docket will be tried between January 11, 2016 and January 29, 2016. A specific trial date in this time frame will be selected at the Final Pretrial Conference.	May 16, 2016 (Ocwen) June 28, 2016 (Homeward)	June 28, 2016	November 1, 2016 or anytime thereafter convenient for the Court

This relief is not sought for purposes of delay, but so that justice may be done.

Dated: March 2, 2016

Respectfully submitted,

By: /s/Thomas M. Melsheimer

Thomas M. Melsheimer
melsheimer@fr.com
Texas Bar No. 13922550
M. Brett Johnson
johnson@fr.com
Texas Bar No. 00790975
Chad B. Walker
cbwalker@fr.com
Texas Bar No. 24056484
FISH & RICHARDSON P.C.
1717 Main Street, Suite 5000
Dallas, TX 75201
(214) 747-5070 (Telephone)
(214) 747-2091 (Facsimile)

William T. "Tommy" Jacks
Texas Bar No. 10452000
jacks@fr.com
David S. Morris
Texas Bar No. 24032877
dmorris@fr.com
One Congress Plaza, Suite 810
111 Congress Avenue
Austin, TX 78701
(512) 472-5070 (Telephone)
(512) 320-8935 (Facsimile)

Samuel L. Boyd
sboyd@boydfirm.com
Texas State Bar No. 02777500
Catherine C. Jobe
cjobe@boydfirm.com
Texas State Bar No. 10668280
BOYD & ASSOCIATES, PC
6440 North Central Expressway
Suite 600
Dallas, Texas 75206-4101
(214) 696-2300 (Telephone)
(214) 363-6856 (Facsimile)

Roger D. Sanders
Texas State Bar No. 17604700
roger.sanders@somlaw.net
J. Michael Young
Texas State Bar No. 00786465
michael.young@somlaw.net
**SANDERS, O'HANLONG, MOTLEY &
YOUNG, PLLC**
III South Travis
Sherman, Texas 75090
(903) 892-9133 (Telephone)
(903) 892-4300 (Facsimile)

Counsel for Relators/*Qui Tam* Plaintiffs

By: /s/ Richard A. Sayles

Richard A. Sayles
Texas State Bar No. 17697500
DSayles@swtriallaw.com
Darren P. Nicholson
Texas State Bar No. 24032789
DNicholson@swtriallaw.com
Sayles Werbner PC
4400 Renaissance Tower
1201 Elm Street
Dallas, Texas 75270
Telephone: (214) 839-8700
Facsimile: (214) 839-8787

Jonathan Rosenberg
New York State Bar No. 1992890
William J. Sushon
New York State Bar No. 2742328
Asher L. Rivner
New York State Bar No. 4283438
O'Melveny & Myers LLP
Seven Times Square
New York, New York 10036
Telephone: (212) 326-2000
Facsimile: (212) 326-2061

Elizabeth Lemond McKeen
California State Bar No. 216690
emckeen@omm.com
Edgar Martinez
California State Bar No. 255503
emartinez@omm.com
O'Melveny & Myers LLP
610 Newport Center Drive
17th Floor
Newport Beach, California 92660
Telephone: (949) 823-7150
Facsimile: (949) 823-6994

Gerard E. Wimberly, Jr. (La. #13584)
MCGLINCHEY STAFFORD, PLLC
601 Poydras Street
12th Floor
New Orleans, Louisiana 70130
Telephone: 504-586-1200
Facsimile: 504-596-2800

**Attorneys for Defendants, Ocwen Loan
Servicing, LLP, Ocwen Financial Corporation
and Homeward Residential, Inc.**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on March 2, 2016 to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ Thomas M. Melsheimer

Thomas M. Melsheimer